IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12466 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE M.R. SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

UDAY CABLE NETWORK

Versus

COLLECTOR

Appearance:

1. Special Civil Application No. 12466 of 2003

MR GM JOSHI for Petitioner No. 1

MR MR MENGDEY, AGP for Respondent No. 1-2

CORAM : HON'BLE MR.JUSTICE M.R. SHAH

Date of decision: 21/12/2004

ORAL JUDGEMENT

#. In this petition filed under Article 226 of the Constitution of India, the petitioner has challenged the

legality and validity of the order passed by respondent no.1 - Collector (Entertainment Tax), Amreli dated 19.08.2003 by which cable registration of the petitioner has been cancelled.

#. Mr.G.M.Joshi, learned advocate for the petitioner, has submitted that before passing the impugned order dated 19.08.2003 cancelling the cable registration of the petitioner as cable operator neither any show cause notice has been issued nor opportunity of being heard is given by respondent no. 1 and thus the impugned order is in breach of the principles of natural justice.

#. Mr.Mengdey, learned A.G.P. has submitted that considering the criminal case filed against the petitioner being II C.R.No.63 of 2003 registered at Babra police station, cable registration of the petitioner has been cancelled and therefore requested to dismiss the present petition.

#. Heard the learned counsel for the parties.

#. It is an admitted position that before passing the impugned order dated 19.08.2003, no show cause notice has been issued upon the petitioner nor any opportunity of being heard is given to the petitioner. Thus, from the bare reading of the impugned order dated 19.08.2003, it does not show that any show cause notice is issued and/or any opportunity of being heard is given to the petitioner. Under the circumstances, impugned order dated 19.08.2003 is in breach of the principles of natural justice and therefore the same is required to be quashed and set aside and accordingly the same is quashed and set aside. It will be open for the respondents to pass appropriate order on its own merits and in accordance with law after issuing show cause notice and/or after giving opportunity of hearing to the petitioner.

#. In view of the above, this petition is allowed. Rule is made absolute to the aforesaid extent with no order as to costs.

(M.R.Shah,J)

(pathan)